

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA

DOCKET NO. 2002-90-C - ORDER NO. 2002-710

OCTOBER 3, 2002

IN RE: Application of National Directory Assistance, LLC for a Certificate of Public Convenience and Necessity to Provide Interexchange Telecommunications Service and for Modified Alternative Regulation.)	ORDER <i>✓</i> <i>10/1/02</i>
)	APPROVING <i>✓</i> <i>10/1/02</i>
)	APPLICATION
)	
)	

This matter comes before the Public Service Commission of South Carolina (the "Commission") by way of the Application of National Directory Assistance, LLC ("NDA" or the "Company") requesting a Certificate of Public Convenience and Necessity authorizing it to provide intrastate, interexchange telecommunications services within the State of South Carolina on a resale basis. The Company's Application was filed pursuant to S.C. Code Ann. § 58-9-280 (Supp. 2001), S.C. Code Ann. § 58-9-520 (Supp. 2001) and the rules and regulations of the Public Service Commission of South Carolina.

The Commission's Executive Director instructed NDA to publish, one time, a prepared Notice of Filing in newspapers of general circulation in the affected areas. The purpose of the Notice of Filing was to inform interested parties of NDA's Application and of the manner and time in which to file the appropriate pleadings for participation in the proceeding. NDA complied with this instruction and provided the Commission with proof of publication of the Notice of Filing. No Petitions to Intervene were filed.

A hearing was convened on August 28, 2002, at 2:30 p.m. in the Commission's Hearing Room at 101 Executive Center Drive, Columbia, South Carolina. The Honorable Mignon Clyburn, Chairman, presided. Bonnie D. Shealy, Esquire, represented NDA. Jocelyn G. Boyd, Staff Counsel, represented the Commission Staff.

Thomas F. Speed, Jr., President of NDA, appeared and testified on behalf of the Company. As President, Mr. Speed's responsibilities include all aspects of building the business from inception. His duties include fund raising, creating and maintaining financial records, staffing office positions, and overseeing all operational management. Prior to joining NDA, Mr. Speed was president and founder of Worldwide Express of Louisville & Cincinnati, an overnight express delivery company that Speed sold in 2001.

NDA was incorporated in the State of Delaware on March 27, 2001. Further, NDA does not have offices in South Carolina. The record reveals that NDA intends to provide telecommunications services to business customers as a non-facilities based (switchless) reseller of interexchange services utilizing the network facilities of MCI. The customer will become a customer of the Company, not the underlying carrier. NDA will assume responsibility for billing, trouble reporting, and customer service. Further, NDA plans to provide telecommunication services from points of origin in South Carolina to destination points in South Carolina, other parts of the United States and foreign countries.

The record further reveals that NDA does not own, operate, control or manage any telecommunication transmissions facility. Further, the Company does not own or

operate a switch. NDA will continue to utilize the existing facilities of interexchange carriers and will not construct any new facilities within South Carolina.

NDA's services are offered through independent local exchange companies for customers requesting directory assistance. Once the caller is provided the desired telephone number, the caller is offered call completion. Prior to the completion of the long distance call, an announcement, which includes the Company's name and the per minute charge, will be played. If the customer hangs up prior to the call being answered, no charge will be assessed. No customers are presubscribed, thus the Company does not have a letter of authorization. NDA intends to offer its services throughout the State of South Carolina in conjunction with independent local exchange companies.

NDA will utilize the network facilities of MCI. The Company will receive long distance services from MCI. The Company will purchase services pursuant to the terms and conditions set forth in MCI's FCC Tariffs and MCI's state tariffs. Regarding billing of customers, the underlying carriers provide billing tapes of all call detail. These intrastate call detail records are then sorted by NDA customer, rated at the rates included in NDA's Intrastate tariff. Billing information is generated monthly for the customer and included on the customers bill for local service.

NDA is not planning to offer operator services nor payphone services in South Carolina. The Company will market its services through independent local exchange companies; NDA does not intend to telemarket in South Carolina. NDA has been certified or otherwise authorized to provide intrastate resale services of the type described

in its Application in Indiana, Iowa, Montana, Ohio, Texas and Wisconsin. The Company has never been denied authority in any state.

Regarding the Company's managerial resources, the only other corporate officer of NDA, other than Mr. Speed, is Stephen J. Ferry. Mr. Ferry is Vice President of NDA. Prior to joining National Directory Assistance, Mr. Ferry was with US Connect where he developed, marketed and implemented a turn key wholesale directory assistance service product for independent local exchange carriers. The record further reveals that Mr. Ferry was with GTE-Louisville, KY for more than five years. Mr. Ferry earned a Bachelor of Arts in Public Relations from Western Kentucky University.

The Company seeks exemption from any policy that might require a carrier to maintain its financial records in accordance with the Uniform System of Accounts. Speed testified that NDA, as a competitive carrier, maintains its books in accordance with Generally Accepted Accounting Principles; and therefore, does not possess the detailed cost data required by the Uniform System of Accounts. NDA also specifically requests a waiver of 26 S.C. Code Ann. Regs. 103-610 that a carrier keep all records required by the Commission's rules and regulations within the State of South Carolina. The Company's corporate offices are in Indiana; therefore Speed testified that maintaining its books and records in South Carolina would be unduly burdensome and NDA will have a registered agent in South Carolina and will bear any costs associated with the Commission's inspection of its books and records. The Company has also requested alternative regulation of its long distance services as established by Order Nos. 1995-1734 and 1996-

55 in Docket No. 1995-661-C and as modified by Order No. 2001-997 in Docket No. 2000-407-C.

After full consideration of the applicable law, the Company's Application, and the evidence presented at the hearing, the Commission hereby issues its findings of fact and conclusions of law:

FINDINGS OF FACT

1. NDA is organized as a corporation under the laws of the State of Delaware and is authorized to do business as a foreign corporation in the State of South Carolina by the Secretary of State.

2. NDA is a provider of long distance services and wishes to provide long distance services in South Carolina.

3. NDA has the experience, capability, and financial resources to provide the services as described in its Application.

CONCLUSIONS OF LAW

1. Based on the above findings of fact, the Commission determines that a Certificate of Public Convenience and Necessity should be granted to NDA to provide resold intrastate interLATA service and to originate and terminate toll traffic within the same LATA, as set forth herein, through the resale of intrastate Wide Area Telecommunications Services (WATS), Message Telecommunications Service (MTS), Foreign Exchange Service, Private Line Service, or any other services authorized for resale by tariffs of carriers approved by the Commission.

2. The Commission adopts a rate design for NDA for its residential interexchange services which includes only maximum rate levels for each tariff charge. A rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels has been previously adopted by the Commission. In Re: Application of GTE Sprint Communications Corporation, etc., Order No. 84-622, issued in Docket No. 84-10-C (August 2, 1984).

3. NDA shall not adjust its residential interexchange rates below the approved maximum level without notice to the Commission and to the public. NDA shall file its proposed rate changes, publish its notice of such changes, and file affidavits of publication with the Commission two weeks prior to the effective date of the changes. However, the public notice requirement is waived, and therefore not required, for reductions below the maximum cap in instances which do not affect the general body of subscribers or do not constitute a general rate reduction. In Re: Application of GTE Sprint Communications, etc., Order No. 93-638, issued in Docket No. 84-10-C (July 16, 1993). Any proposed increase in the maximum rate level for residential interexchange services reflected in the tariff, which would be applicable to the general body of the Company's subscribers, shall constitute a general ratemaking proceeding and will be treated in accordance with the notice and hearing provision of S.C. Code Ann. §58-9-540 (Supp. 2001).

4. If it has not already done so by the date of issuance of this Order, NDA shall file its revised tariff and an accompanying price list within thirty (30) days of receipt of this Order. The revised tariff shall be consistent with the findings of this Order

and shall be consistent with the Commission's Rules and Regulations. Further, NDA shall file a copy of its Bill Form as required by 26 S.C. Code Ann. Regs. 103-612.2.2 and 103-622.1 with its final Tariff.

5. NDA is subject to access charges pursuant to Commission Order No. 86-584, in which the Commission determined that for access purposes resellers and facilities-based interexchange carriers should be treated similarly.

6. With regard to NDA's resale of service, an end-user should be able to access another interexchange carrier or operator service provider if the end-user so desires.

7. NDA shall resell the services of only those interexchange carriers or LECs authorized to do business in South Carolina by this Commission. If NDA changes underlying carriers, it shall notify the Commission in writing.

8. NDA shall file annual financial information in the form of annual reports and gross receipts reports as required by the Commission. The annual report and the gross receipt report will necessitate the filing of intrastate information. Therefore, NDA shall keep financial records on an intrastate basis for South Carolina to comply with the annual and gross receipts filings. The proper form for filing annual financial information can be found at the Commission's website at www.psc.state.sc.us/forms. The title of this form is "Annual Information on South Carolina Operations for Interexchange Companies and AOS." This form shall be utilized by the Company to file annual financial information with the Commission. Commission gross receipts forms are due to be file with the Commission no later than October first of each year.

9. NDA shall, in compliance with Commission regulations, designate and maintain an authorized utility representative who is prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, tests and repairs. In addition, NDA shall provide to the Commission in writing the name of the authorized representative to be contacted in connection with general management duties as well as emergencies which occur during non-office hours. NDA shall file the names, addresses and telephone numbers of these representatives with the Commission within thirty (30) days of receipt of this Order. The “Authorized Utility Representative Information” form can be found at the Commission’s website at www.psc.state.sc.us/forms; this form shall be utilized for the provision of this information to the Commission. Further, NDA shall promptly notify the Commission in writing if the representatives are replaced.

10. With regard to the origination and termination of toll calls within the same LATA, NDA shall comply with the terms of Order No. 93-462, Order Approving Stipulation and Agreement, in Docket Nos. 92-182-C, 92-183-C, and 92-200-C (June 3, 1993), with the exception of the 10-XXX intraLATA dialing requirement, which has been rendered obsolete by the toll dialing parity rules established by the Federal Communications Commission pursuant to the Telecommunications Act of 1996 (See, 47 CFR 51.209).

11. By its Application and testimony at the hearing, NDA requested a waiver from the Commission's requirement to maintain its books within the State of South Carolina according to 26 S.C. Code Ann. Regs. 103-610 (1976). The Commission grants NDA's request to waive the record keeping regulation so that its books and records may

be kept at its principal office and headquarters in California. We also grant the Company's request to maintain its books in accordance with GAAP.

12. The Commission adopts a rate design for the long distance services of NDA which are consistent with the principles and procedures established for alternative regulation of business service offerings set out in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C and modified by Order No. 2001-997.

Under the Commission approved modified alternative regulation, the business service offerings of NDA, including consumer card services and operator services, are subject to a relaxed regulatory scheme identical to that granted to AT&T Communications in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C. However, pursuant to Order No. 2001-997 (Docket No. 2000-407-C), this Commission has modified alternative regulation by the re-imposition of rate caps with regard to certain "operator-assisted calls" where a customer uses a local exchange carrier's calling card to complete calls from locations which have not selected that local exchange carrier as the toll provider. Order No. 2001-997, dated November 8, 2001, imposed a maximum cap of \$1.75 for operator surcharges for such calls, and a maximum cap of \$0.35 related to the flat per-minute rate associated with these calls. Under this relaxed regulatory scheme, tariff filings for business services shall be presumed valid upon filing. The Commission will have seven (7) days in which to institute an investigation of any tariff filing. If the Commission institutes an investigation of a particular tariff filing within seven days, the tariff filing will then be suspended until further Order of the Commission. Any

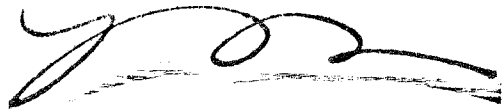
relaxation in the future reporting requirements that may be adopted for AT&T shall apply to NDA also.

13. NDA is directed to comply with all Rules and Regulations of the Commission, unless a regulation is specifically waived by the Commission.

14. Each telecommunications company certified in South Carolina is required to file annually Intrastate State Universal Service (USF) worksheet. This worksheet provides the Commission Staff information required to determine each telecommunications company's liability to the State USF fund. The Intrastate USF worksheet is due to be filed annually no later than August 15th.

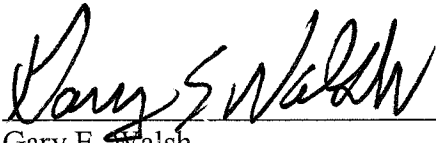
15. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:



Mignon L. Clyburn
Chairman

ATTEST:



Gary E. Walsh
Executive Director

(SEAL)